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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,801	01/25/2001	George A. Tropoloc	56553-P001CP1-09907871	4084

29053 7590 08/29/2003

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.  
2200 ROSS AVENUE  
SUITE 2800  
DALLAS, TX 75201-2784

EXAMINER

FERNSTROM, KURT

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 08/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/769,801

Applicant(s)

TROPOLOC, GEORGE A.

Examiner

Kurt Fernstrom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-32 is/are allowed.
- 6) ☒ Claim(s) 33 is/are rejected.
- 7) ☒ Claim(s) 34-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 3, 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tehan in view of Frascara. Tehan discloses in Figures 3-5 and in column 3, line 30 to column 5, line 25 a method of communicating using a plurality of colored blocks comprising assigning colors to letters, and communicating the identity of each letter via a particular color, without providing a unique geometric shape for each letter. While Figures 1 and 2 show a letter on the side of each block, Tehan explicitly discloses in column 3, lines 55-62 that the blocks are not provided with any indicia apart from the colors. Tehan fails to disclose the assigning of a unique color to each letter of the alphabet, reusing certain colors for more than one letter. Frascara discloses in Figures 3a-3c and in column 2, lines 6-34 the use of a unique background pattern for each of the 26 letters. It would have been obvious to one of ordinary skill in the relevant art to modify the method disclosed by Tehan by providing unique colors for each of the 26 letters for the purpose of providing a single distinguishing feature for identifying the letters. While Frascara is directed

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to background patterns rather than colors, these patterns are considered to be analogous to colors in that each uses a visual pattern as an identification means. The lines of the patterns of Frascara do not serve any particular purpose beyond that of a color.

***Allowable Subject Matter***

3. Claims 21-32 are allowed.
4. Claims 34-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest a method having all of the limitations of claim 34, in particular the provision of the communication step within a computer aided tutorial. Tehan is directed to a set of colored blocks which are physically manipulated by hand. There is no motivation or suggestion to combine the teachings of Tehan with those of known computer aided tutorial methods.

***Response to Arguments***

6. Applicant's arguments with respect to claim 33 has been considered but are moot in view of the new ground(s) of rejection.

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*Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303.

KF

August 21, 2003

  
Kurt Fernstrom